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**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/526,777 03/16/00 CURRY

J 1019-P-1

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PM82/0413

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EXAMINER

LOFDAHL, J

ART UNIT

PAPER NUMBER

3644

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DATE MAILED: 04/13/01

TOD R NISSLE ESQ  
TOD R NISSLE PC  
P O BOX 55630  
PHOENIX AZ 85078

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/526,777

Applicant(s)

CURRY, JON K.

Examiner

Jordan M Lofdahl

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1, 3, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Koros et al. (5,593,157).

As to claim 1, the device Koros (Fig. 1) discloses a compressibly elastically deformable hollow thin-walled rubber core circumscribing and enclosing a selected compressible gaseous volume and including a center (12), an outer surface, a wall less than three-sixteenths of an inch thick (Col. 2, lines 31-33) and points on the outer surface at varying distances from the center (read as the ends of the outer fibers of the felt), a felt cover (18) affixed (19) to the outer surface of the core, atleast one elongate strip of material extending over the outer surface as a line of demarcation (21).

As to claim 3, the device Koros discloses a compressibly elastically deformable hollow thin-walled rubber core circumscribing and enclosing a selected compressible gaseous volume and including a center, an outer surface, a wall less than three-sixteenths of an inch thick and points on the outer surface at varying distances from the center, a felt

cover affixed to the outer surface of the core. The device is capable of bouncing in a straight line and capable to change direction of travel from bounce to bounce.

As to claim 5, the device Koros discloses a compressibly elastically deformable hollow thin-walled rubber core circumscribing and enclosing a selected compressible gaseous volume and including a center, an outer surface, a wall less than three-sixteenths of an inch thick and points on the outer surface at varying distances from the center, a felt cover affixed to the outer surface of the core. The device is capable of bouncing erratically.

As to claim 6, the device Koros discloses a compressibly elastically deformable hollow thin-walled rubber core circumscribing and enclosing a selected compressible gaseous volume and including a center, an outer surface, a wall less than three-sixteenths of an inch thick and points on the outer surface at varying distances from the center, a felt cover affixed to the outer surface of the core. The device is capable of bouncing in a straight line and capable to change direction of travel from bounce to bounce.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koros et al. and further in view of Garrison (3,830,202).

As to claim 2, the device of Koros, a compressibly elastically deformable hollow thin-walled rubber core circumscribing and enclosing a selected compressible gaseous volume and including a center, an outer surface, a wall less than three-sixteenths of an inch thick and points on the outer surface at varying distances from the center, a felt cover affixed to the outer surface of the core. The device of Koros, does not disclose an inner wall portion circumscribing an aperture extending completely through said core. The device Garrison (fig. 1-4), however, discloses a device with an inner wall portion circumscribing an aperture (15) extending completely through said core. It would have been obvious to one of ordinary skill in the art at the time the invention was made to create an inner wall portion circumscribing an aperture extending completely through said core of the device of Koros, in order to create a means to affix a rope through the aperture to create another means for a dog to grasp the device.

As to claim 4, the device of Koros, a compressibly elastically deformable hollow thin-walled rubber core circumscribing and enclosing a selected compressible gaseous volume and including a center, an outer surface, a wall less than three-sixteenths of an inch thick and points on the outer surface at varying distances from the center, a felt cover affixed to the outer surface of the core. The device is capable of bouncing

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erratically. The device of Koros, does not disclose an inner wall portion circumscribing an aperture extending completely through said core and a rope extending through said aperture. The device Garrison however, discloses a device with an inner wall portion circumscribing an aperture extending completely through said core and a rope through said aperture(16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to create an inner wall portion circumscribing an aperture extending completely through said core and a rope through said aperture of the device of Koros, in order to create another means for a dog to grasp the device.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ball (D107939), Mitchell (4462590), Kralick (4660831), O'Rourke (5092272), Stillinger (5413331), Jorgensen (5758604), Markham (5865146) and Hass (5961406) disclose balls and/or dog toys.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan M Lofdahl whose telephone number is 703.605.1217. The examiner can normally be reached on 8-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T Jordan can be reached on 703.306.4159. The fax phone numbers for the organization where this application or proceeding is assigned are

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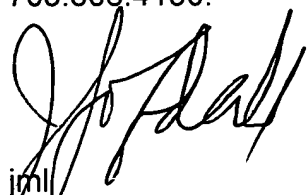
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703.305.7687 for regular communications and 703.305.7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is

703.306.4180.

  
jml  
April 9, 2001

  
CHARLES T. JORDAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600